

AMENDED IN ASSEMBLY MARCH 9, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1851

Introduced by Assembly Member Longville

February 7, 2000

An act to amend Section 103425 of, to add Section 103735 to, and to add Article 8 (commencing with Section 103447) to Chapter 11 of Part 1 of Division 102 of, the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, as amended, Longville. Vital records: change of sex.

Existing law provides that whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared for the person reflecting the change of gender and any change of name. Existing law requires that a petition for the issuance of a new birth certificate in those cases be filed with the superior court of the county where the petitioner resides.

This bill would permit these petitions also to be filed in the county where the petitioner was born. The bill would also establish a procedure for the issuance of a certificate of change of sex to ~~persons~~ *California residents* who do not have a California birth certificate. The imposition of this new procedure on counties would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103425 of the Health and Safety
2 Code is amended to read:

3 103425. Whenever a person born in this state has
4 undergone surgical treatment for the purpose of altering
5 his or her sexual characteristics to those of the opposite
6 sex, a new birth certificate may be prepared for the
7 person reflecting the change of gender and any change
8 of name accomplished by an order of a court of this state,
9 another state, the District of Columbia, or any territory
10 of the United States. A petition for the issuance of a new
11 birth certificate in those cases shall be filed with the
12 superior court of the county where the petitioner resides
13 or in the county where the petitioner was born.

14 SEC. 2. Article 8 (commencing with Section 103447)
15 is added to Chapter 11 of Part 1 of Division 102 of the
16 Health and Safety Code, to read:

17

18 Article 8. Certification of Change of Sex

19

20 103447. Whenever a ~~person~~ *California resident* who
21 does not have a California birth certificate has undergone
22 surgical treatment for the purpose of altering his or her
23 sexual characteristics to those of the opposite sex, a
24 certificate of change of sex may be prepared for the



1 ~~person~~ *resident* reflecting the change of gender and any
2 change of name accomplished by an order of a court of
3 this state, another state, the District of Columbia, or any
4 territory of the United States. A petition for the issuance
5 of a certificate of change of sex in those cases shall be filed
6 with the superior court of the county where the
7 petitioner resides.

8 103448. (a) The petition shall be accompanied by an
9 affidavit of a physician documenting the sex change and
10 a certified copy of the court order changing the
11 petitioner's name, if applicable.

12 (b) The petition shall be heard at the time appointed
13 by the court and objections may be filed by any person
14 who can, in those objections, show to the court good
15 reason against the certificate of change of sex. At the
16 hearing, the court may examine ~~on~~ *under* oath the
17 petitioner, and any other person having knowledge of
18 facts relevant to the petition. At the conclusion of the
19 hearing, the court shall make an order to issue a
20 certificate, or dismissing the petition, as to the court may
21 seem right and proper.

22 (c) A certified copy of the decree of the court ordering
23 the certificate of change of sex shall, within 30 days from
24 the date of the decree, be filed with the State Registrar.
25 Upon receipt thereof, together with the fee prescribed in
26 Section 103735, the State Registrar shall issue a certificate
27 of change of sex for the petitioner.

28 (d) The certificate of change of sex shall indicate the
29 sex of the registrant as it has been surgically altered and
30 shall reflect any change of name specified in the petition
31 if accompanied by a court order, as prescribed in Section
32 103447.

33 (e) All records and information specified in this
34 article, other than the certificate of change of sex, shall be
35 available only upon written request of the registrant or an
36 order of a court of record.

37 (f) The State Registrar shall transmit a certified copy
38 of the certificate of change of sex established under this
39 article to the registrant without additional charge.

40 ~~104449.—~~

1 103449. In lieu of separate proceedings, a single
2 petition of a change of name and issuance of a certificate
3 of change of sex may be filed with the superior court. With
4 respect to such a petition, the court shall follow the
5 procedure set forth in Title 8 (commencing with Section
6 1275) of Part 3 of the Code of Civil Procedure. A certified
7 copy of the decree of the court issued pursuant to this
8 section shall, within 30 days, be filed with both the
9 Secretary of State and the State Registrar. Upon its
10 receipt, the State Registrar shall establish a certificate of
11 change of sex as provided in this article.

12 SEC. 3. Section 103735 is added to the Health and
13 Safety Code, to read:

14 103735. A fee of eleven dollars (\$11) shall be paid to
15 the State Registrar by the applicant for a certificate of
16 change of sex under Article 8 (commencing with Section
17 103447).

18 SEC. 4. Notwithstanding Section 17610 of the
19 Government Code, if the Commission on State Mandates
20 determines that this act contains costs mandated by the
21 state, reimbursement to local agencies and school
22 districts for those costs shall be made pursuant to Part 7
23 (commencing with Section 17500) of Division 4 of Title
24 2 of the Government Code. If the statewide cost of the
25 claim for reimbursement does not exceed one million
26 dollars (\$1,000,000), reimbursement shall be made from
27 the State Mandates Claims Fund.

